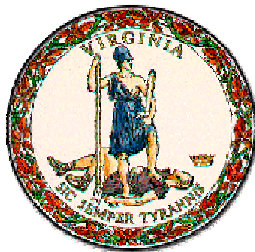


The Commonwealth of Virginia...  
Chesapeake Bay Local Assistance Department



## *Bay Act News*



### Look inside for:

**CBLAD Activities:** page 2

**Program Guidance, The RPA Buffer:** page 3

**Bay Program Highlights:** page 6

**Locality Focus, Chesterfield:** page 7

**Staff Profile:** page 2

**The Revised Regulations:** pages 4,5

**Upcoming Events:** page 6

**Contact Information:** page 8



### **Program Notes:** Scott Crafton, Acting Executive Director

CBLAD is pleased to publish this first edition of the agency newsletter. Our hope is that this will become a useful publication through which we can communicate information that will be important to those who are interested in the program and who must implement it in Tidewater Virginia. The two biggest changes that I want to communicate through this issue have to do with (1) the change in leadership for the agency and (2) the next steps following the regulation amendments.

Upon the departure of former Executive Director Michael Cower, I was asked to serve as Acting Executive Director. I intend to continue scheduling visits with local government administrators and managers to help fill in gaps in their understanding of the program, answer questions and, hopefully, to put a "face" on the agency. I believe this is vitally important in order for our "partnership" to function effectively, enabling us to prevent and, as necessary, quickly solve problems regarding program implementation. CBLAD is also undertaking other efforts to improve communications between the agency and our local government customers. We are improving our website, to make it more interactive and up to date, and we are continuing to survey local staff regarding their most pressing needs for assistance.

Our feature article on pages 4 and 5 addresses the recently adopted final Bay Act regulation amendments. Agency liaisons have already begun communicating with their local government contacts regarding needed ordinance changes, and our staff will send out written guidance regarding the regulation amendments and local process soon.

I am looking forward to guiding CBLAD through its transitional period and encourage localities and others interested in water quality to share your thoughts and send your concerns to us.

# CBLAD Activities

*In addition to day-to-day activities with local governments and compliance with the Bay Act, CBLAD is engaged in several studies and outreach activities as a part of its overall program to protect and enhance the quality of state waters. A brief statement about some of these activities follows. Contact the project manager for more information.*

## **Shoreland Planning Protocol:**

*Project Manager – Shep Moon*

CBLAD is in the process of developing a planning tool to help local governments reduce the impact of development on the resources of the Bay. This two-year project is funded through the Virginia Coastal Management Program and the Coastal Nonpoint Source Pollution Control Program. The goal is to develop a methodology to: 1) generally predict the impacts of development on nearby estuarine resources, and 2) select the most appropriate management techniques to avoid those impacts. The project is targeted at rural communities experiencing waterfront development, especially on tidal creeks where many sensitive resources are situated.

## **Riparian Buffer Project:**

*Project Manager – Doug Wetmore*

The goal of this project is to issue a comprehensive guidance document dealing exclusively with RPA buffer management and restoration. It will also promote the establishment of riparian buffers and provide guidance that is flexible and equitable. It is being carried out under the Forest Stewardship (USDA-Title II) Program. This project is in response to requests from localities for more guidance on implementing the Regulations with regard to buffer establishment, conservation, restoration, modification and mitigation. The document will provide administrative and regulatory assistance to localities in addition to its technical content. A local government advisory committee is assisting in this effort.

## Staff Profiles: Scott Crafton



Scott was recently promoted to Acting Executive Director for CBLAD but is not new to the Department. Scott has served as the Chief of Environmental Engineering for the past 14 years. Before that he served as an engineer for the Department of Conservation and Recreation for 11 years. During that time he managed the Virginia Erosion and Sediment Control Program and provided key planning for Virginia's agricultural and urban non-point source pollution control initiatives. Scott graduated from Virginia Tech in 1977 with a degree in Landscape Architecture. He currently serves on the College of Architecture Development Committee for the Virginia Tech College of Architecture. Before college, he served our country as a member of the Navy SeaBees in Vietnam. Outside work, Scott serves as Director of music and worship for his church, Redeemer Assembly of God in Goochland. Scott is married with five grown children.

# Departmental Guidance and Policy

## -Activity in the RPA Buffer

The recent revisions to the Chesapeake Bay Area Designation and Management Regulations were undertaken, in part, to provide clear direction to local governments as well as citizens, developers, property owners, and interest groups with respect to the RPA buffer area. [See the feature article regarding the revisions to the Regulations.]

The RPA buffer area has three functions: to retard runoff, to prevent erosion, and to filter pollutants. The buffer works to retard runoff by slowing down the speed of the overland flow, which enables the water to filter through the surface of the ground and restore groundwater levels. This function helps to prevent channels from forming and also enhances the pollutant removal capacity of the buffer area. Retarding runoff is one way that the buffer assists in prevention of erosion.

Erosion is also prevented when the runoff slows below erosive rates. The roots of the vegetation actually bind the soil, preventing erosion from occurring in close proximity to the water feature or wetland. A vegetated buffer also helps to prevent erosion because the vegetation helps to protect the ground surface from rain impact.

Research in the decade since the Regulations were first promulgated supports the concept of vegetated buffer area adjacent to water features for water quality protection and improvement purposes. In fact, numerous states have voluntary or mandatory vegetated buffer requirements as part of an overall water quality protection program. Research indicates that vegetated buffer areas adjacent to wetlands or other water features can not only function to remove pollutants from stormwater runoff over land but riparian forested buffer areas can function to remove pollution from groundwater and protect groundwater from pollutants by absorbing pollutants through the tree roots.

It is clear that the RPA buffer area provides specific water quality protection and enhancement functions. Therefore CBLAD will provide thorough, updated buffer guidance in the near future. However the following concepts are among the most important in applying the buffer requirement.

- The 100-foot buffer is never reduced in width. However, certain encroachments may be permitted and limited modifications allowed within the full 100-foot buffer.
- Since the buffer is part of the RPA, restrictions and requirements pertaining to permitted uses and development within the RPA also apply to the 100-foot buffer.
- Any proposed development and any exception request that would allow activity in the RPA, including the placement of water quality BMPs, must be considered in light of a Water Quality Improvement Assessment (WQIA), submitted to the local government.
- Activities not specifically identified in §9VAC 10-20-130 are not allowed by right within the RPA buffer. Activities normally associated with development, such as land disturbance, grading operations and clearing of vegetation is not allowed by right, in the RPA buffer. Such activities are allowable only when a WQIA is reviewed and a formal exception is found to be warranted.

***For more information about guidance on the RPA buffer contact Shawn Smith, Principal Planner at: [ssmith@cblad.state.va.us](mailto:ssmith@cblad.state.va.us)***

# **CBLAD Featured Article:**

## **Implementing the Revised Chesapeake Bay Act Regulations**

On December 10, 2002 the Chesapeake Bay Local Assistance Board adopted the final amendments to the Bay Act Regulations (see box), thus culminating a process that began in 1996. The final review and appeal period ended on February 14<sup>th</sup> and the Regulations became fully effective on March 1, 2002. The Department's work with regard to the Regulations has now shifted to providing guidance to localities on what changes need to be made to local ordinances, procedures, and the day-to-day implementation of local programs.

Localities have until March 1, 2003 to make changes to their local ordinances to make them consistent with the revised Regulations. Regarding the RPA buffer, it had long been the Board and Department's position that some localities were misapplying and interpreting the buffer equivalency provision that previously existed. The recent revisions have clarified the intent and application of the buffer equivalency provisions. The Board now expects the full 100- foot wide RPA buffer to be the standard. More on this subject is found in the article on page 3 of this newsletter.

To assist localities in determining what changes need to be made to their local programs, each CBLAD liaison is reviewing their localities' code provisions and will provide each locality with a generic list of changes that will need to be considered. Thereafter, the liaison will be available to work with each local program contact in developing changes that specifically apply. Concurrently, CBLAD staff is revising previous guidance documents (e.g. the Information Bulletin Series #1-#12 and the model ordinance), and is providing new guidance for items such as the new exception provisions, on-site delineation, silviculture and perennial flow issues.

### **Items requiring review/modifications within ONE YEAR:**

- Definitions
- Perennial flow basis for determining RPA buffers
- RPA buffer preservation and protection
- Site specific RPA delineation requirement
- Stormwater Management performance criteria
- Agriculture performance criteria
- Exception review and approval process

While the Department is providing technical assistance and guidance materials, the responsibility for bringing local programs into compliance rests with each Tidewater locality. Once a local program is modified, it is to be sent to CBLAD for processing as a modification to the Phase I Local Program. This process involves review by the appropriate Board Area Review Committee with final action by the Chesapeake Bay Local Assistance Board.

Letters have been sent to each of the 84 Tidewater Virginia localities informing them of the need to review and revise their local programs. The revised Regulations can be accessed on the CBLAD website, [www.cblad.state.va.us](http://www.cblad.state.va.us), where you will also find the latest guidance and other information pertaining to implementation of the revised Regulations. Questions about this matter should be directed to Martha Little, Chief of Environmental Planning via email to [mlittle@cblad.state.va.us](mailto:mlittle@cblad.state.va.us) or by calling her, or your locality liaison, at 1-800-CHESBAY or 1-804-225-3440.

# Implementing the Revised Chesapeake Bay Act Regulations

## Local Option Provisions

- Septic system inspections and alternatives
- Certain aspects of the stormwater criteria
- IDA practices
- Accommodation of regional BMPs in the RPA
- Certain aspects of the agriculture criteria
- Civil penalty provisions
- An additional grandfather period (10/89 to 3/02)

*Some of the more significant changes in the revised Regulations include the following:*

**RPA description revised to refer to water bodies with perennial flow:** RPA lands were previously referred to as lands at, or near, the shore. However, shoreline was not defined and some interpretations problems arose. Because of changes to other portions of the Regulations, the descriptive term “water bodies with perennial flow” replaced “at or near the shoreline” and, as such, best describes what an RPA is intended to include. Also, the definition of tributary streams, and related language, has been deleted since it was now obsolete.

**Specific approval is required for all RPA buffer modifications:** Modifications to vegetation in the buffer area for sight line clearing, path construction, general woodlot management, and shoreline management are still allowed. However, revisions to 9 VAC 10-20-130.5.a clarify that these modifications are subject to local government approval.

**Buffer areas disturbed for agricultural and silvicultural uses must be re-established:** 9 VAC 10-20-130.3.b was added to clarify that while silvicultural and agricultural land use is allowed in the buffer under specific conditions, when the land changes to development the full RPA buffer must be retained and appropriate buffer vegetation re-established.

## Exception procedures and requirements

**established:** Previously there was only a general provision allowing for exceptions with a standard to accommodate the “minimum necessary to afford relief”. As CBLAD has reviewed local programs in response to citizen complaints, it has become apparent that, in some cases, exceptions were approved without any public notice and often without any findings, or a without a consistent set of findings. These issues were particularly noticeable for exceptions dealing with RPAs. In order to establish a more appropriate process and basis for granting exceptions, significant revisions were made to the exceptions provisions in 9 VAC 10-20-150.C.

*9 VAC 10-20-10 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations – Adopted 12-20-2001 Effective 3-1-2002*

## TABLE OF CONTENTS (abbreviated)

### PART I: INTRODUCTION

### PART II: LOCAL GOVERNMENT PROGRAMS

### PART III: CBPA DESIGNATION CRITERIA

- 10-20-80 Resource Protection Areas (RPA)
- 10-20-90 Resource Management Areas (RMA)
- 10-20-100 Intensely Developed Areas (IDA)
- 10-20-105 Site specific refinement of CBPA

### PART IV: LAND USE AND DEVELOPMENT PERFORMANCE CRITERIA

- 10-20-120 General Performance Criteria (11)
- 10-20-130 Development Criteria for the RPA
- 10-20-150 Nonconformities, exemptions, exceptions

### PART V: COMPREHENSIVE PLAN CRITERIA

### PART VI: LAND DEVELOPMENT ORDINANCES

### PART VII: LOCAL ASSISTANCE AND LOCAL PROGRAM CONSISTENCY REVIEW PROCESS

### PART VIII: IMPLEMENTATION AND ENFORCEMENT



## Bay Program Highlights

CBLAD is very active in the multi-jurisdictional Chesapeake Bay Program with regard to implementation of the C2K commitments pertaining to "Sound Land Use Planning". Martha Little has been appointed as the Chairperson of the Land Growth and Stewardship Subcommittee (LGSS), charged with the oversight of those commitments. David Kovacs is the Chairperson of the work group that handles the Development, Redevelopment and Revitalization (DRR) commitments. Included in this group is the commitment calling for 30% reduction in the rate of "harmful sprawl" on forest and agricultural land. David's work group has developed a draft of parameters for "good" development (when such lands must be developed) along with a system for measuring it. With this approach, the remaining development would be the "harmful sprawl" that is to be reduced pursuant to these commitments. The work group's recommendation for dealing with this matter is targeted to go before the LGSS at its April 8<sup>th</sup> meeting. On March 19<sup>th</sup>, Virginia, Maryland, Pennsylvania, and the District of Columbia will be making a report to the work group about their individual approaches to meeting the DRR commitments. This information will be used for the LGSS to assess progress in meeting these commitments and determining what assistance might be necessary to meet them.

## Upcoming Events and Meetings

**All meetings are in the James Monroe building**  
**March 18<sup>th</sup>** @ 10:00 a.m.: The Board's Quarterly meeting will be held in conference room "C" on the main floor, they will conduct local program reviews.

**April 18<sup>th</sup>** @ 10:30 a.m.: The Board's Policy Committee will review the proposal for the Compliance Evaluation Program. The meeting will be held at CBLAD conference room.

**May 14<sup>th</sup>** The next Northern Area Regional Committee (NARC) and Southern Area Regional Committee (SARC) meetings will be held at CBLAD conference room.

**June 17<sup>th</sup>** The Board Quarterly Meeting will be held in conference room "C" on the main floor.

## CBLAD Website News

CBLAD is revising and upgrading its website! The target date for unveiling will coincide with the CBLAD Workshop on May 15<sup>th</sup>. The newly designed home page will have direct links to:

1. The Act, Regulations and Guidance material
2. Information about the Board and Department
3. Current programs and projects
4. Local programs and the liaison network
5. Technical Assistance Opportunities
6. Grants

## CBLAD First Annual Workshop

CBLAD is reviving its earlier outreach efforts by hosting a workshop that is focused on highlighting local implementation programs and providing technical assistance on topics of interest to local government.

The 2002 Workshop will be held on Wednesday, May 15, 2002 at the Holiday Inn Central, from 8:30am to 3:30pm.

The morning will focus upon technical assistance in such matters as:

- Working with the RPA Buffer
- Handling on-site RPA determinations
- The new exceptions requirements

In the afternoon, we will showcase implementation programs and activities presented by three of the Tidewater localities. Those presentations will be followed by an open group discussion of pertinent matters.

For more information and registration forms visit our website at [www.cblad.state.va.us](http://www.cblad.state.va.us) Or call Dennis Cooke at 1-800 CHES-BAY for additional information. Registration is limited; please reserve your space soon.

# Locality Focus: Chesterfield County

In 1991 Chesterfield County adopted a Chesapeake Bay Preservation Area Ordinance to comply with the State's 1988 Chesapeake Bay Preservation Act (Act). The Resource Protection Area (RPA) is an important aspect of the Act and Regulations and is intended to protect water quality by preserving sensitive lands such as wetlands and riparian forest buffers. The RPAs filter nonpoint source pollutants before they reach streams and rivers. Chesterfield County has taken several important steps to ensure that RPAs are properly managed.

There are approximately 10,000 parcels of land adjacent to the complex water systems of the County. Local staff has worked closely with the CBLAD staff in an effort to educate the public on the function and value of RPAs. While RPA protection is

In 2001, a zoning condition was created that allowed the County to require the posting of RPA signs for new developments. The purpose of this condition is to alert contractors that a protected feature is present on the site and that no clearing or grading is allowed beyond that point. This additional notice will minimize unintended violations of the RPA during the construction phase of the project. Further, once the development is complete, future homeowners will also be alerted to the RPA features present on their parcels.

The County has also produced fact sheets that discuss RPAs and their function. The fact sheets give details about all the different functions of an RPA and what happens to water quality if the RPA is not as properly managed. It lists both what may be permitted as well what is not permitted within the RPA. To date, 5,000 fact sheets have been mailed to homeowners living adjacent to or near RPAs. The County is endeavoring to see that all residential property owners adjacent to RPAs receive the fact sheet. The County's fact sheets are available on their web site and through the Chesterfield County Water Quality Section.

Chesterfield County does not allow lots to be recorded without a sufficient buildable area outside of the RPA. In the past, lots were recorded with such a minimal building area that the house "footprint" abutted the RPA. Because of the proximity of the house location to the RPA, the builder had no choice but to encroach into the RPA to build the house. The yard size also became an issue, since homeowners wanted a reasonably sized yard. The County realized the problem and now requires a buildable area for home and yard outside the RPA.

In the future, Chesterfield plans on developing a program that assists landowners with RPA buffer restoration. The goal is to have pilot sites where RPAs have been replanted/restored to a level that adequately protects water quality. This project will allow the County to develop restoration guidelines for future efforts in the County to restore RPAs that have been previously disturbed or cleared. Chesterfield County has worked closely with CBLAD staff to develop a program that is consistent with state law and enhances the quality of life of their citizens.

## Chesapeake Bay facts for: Chesterfield County

Land area: **446 square miles**

Land in Chesapeake Bay Preservation Area: 100%

Population (2000): **259,903**

Character: **Suburban, Fast growing**

Local program contact:

**Joan Salvati, 804-748-1035 [salvatij@co.chesterfield.va.us](mailto:salvatij@co.chesterfield.va.us)**

CBLAD Liaison:

**Roberta Rhur, 261-1720 [rrhur@cblad.state.va.us](mailto:rrhur@cblad.state.va.us)**

**PDC: Richmond Regional Planning District Commission**

CBLAD Local assistance grants (years/amounts):

FY01/ \$5,000 for 5000 fact sheets sent out to homeowners living in RPAs. The county distributed these fact sheets through homeowner associations and direct mailings to property owners.

mandatory according to Chesterfield's Chesapeake Bay Preservation Area Ordinance, Chesterfield has taken a proactive position to educate the public in an effort to minimize RPA disturbance by landowners who may not be familiar with the law or may not realize that a portion of their property falls under the protection of the Act.

# Contact Information

Board Members	Staff
<p><b><u>Chairman</u></b>  <b>The Honorable L. Clifford Schroeder,</b>  <b>Richmond Regional Planning District</b></p> <p><b><u>Vice Chairman</u></b>  <b>The Honorable Dama E. Rice,</b>  <b>Crater Planning District</b></p> <p><b>The Honorable Anna Lee Bamforth,</b>  <b>Hampton Roads Planning District, Southeastern Portion</b></p> <p><b>The Honorable Robert J. Bannach,</b>  <b>Northern Neck Planning District</b></p> <p><b>The Honorable Frank L. Benser,</b>  <b>RADCO Planning District</b></p> <p><b>The Honorable Donald W. Davis,</b>  <b>Middle Peninsula Planning District</b></p> <p><b>The Honorable Stuart Mendelsohn,</b>  <b>Northern Virginia Planning District</b></p> <p><b>The Honorable Daniel B. Nice,</b>  <b>Hampton Roads Planning District, Peninsula Portion</b></p> <p><b>The Honorable Colin D. Cowling, Jr.,</b>  <b>Accomack-Northhampton Planning District</b></p>	<p><b><u>Executive Director</u></b>  C. Scott Crafton, Acting Executive Director <a href="mailto:scrafton@cblad.state.va.us">scrafton@cblad.state.va.us</a></p> <p><b><u>Environmental Planning and Liaisons</u></b>  Martha H. Little, Chief of Environmental Planning <a href="mailto:mlittle@cblad.state.va.us">mlittle@cblad.state.va.us</a>  Shepard Moon Jr., Northern Neck PDC <a href="mailto:smoon@cblad.state.va.us">smoon@cblad.state.va.us</a>  Shawn E. Smith, AICP, ANPDC, NVRC <a href="mailto:ssmith@cblad.state.va.us">ssmith@cblad.state.va.us</a>  David J. Kovacs, AICP, Policy and Legislation <a href="mailto:dkovacs@cblad.state.va.us">dkovacs@cblad.state.va.us</a>  Lee Tyson, AICP, Hampton Roads PDC <a href="mailto:ltyson@cblad.state.va.us">ltyson@cblad.state.va.us</a>  Nancy L. Miller, Middle Peninsula PDC <a href="mailto:nmiller@cblad.state.va.us">nmiller@cblad.state.va.us</a>  Susan Haas, Rappahannock ADC <a href="mailto:shaas@cblad.state.va.us">shaas@cblad.state.va.us</a>  Doug Wetmore, Hampton Roads PDC <a href="mailto:dwetmore@cblad.state.va.us">dwetmore@cblad.state.va.us</a>  Roberta Dundas Rhur, Richmond RPDC, CRATER <a href="mailto:rrhur@cblad.state.va.us">rrhur@cblad.state.va.us</a>  Dennis Cooke, Outreach and Education Coordinator <a href="mailto:dcooke@cblad.state.va.us">dcooke@cblad.state.va.us</a>  Alice Baird, CLA, ASLA, Special Projects Planner <a href="mailto:abaird@cblad.state.va.us">abaird@cblad.state.va.us</a></p> <p><b><u>Engineering</u></b>  William D. Beisch, Jr.(Doug), Webmaster <a href="mailto:wbeisch@cblad.state.va.us">wbeisch@cblad.state.va.us</a>  Ron Wood, Agriculture Programs Manager <a href="mailto:rwood@cblad.state.va.us">rwood@cblad.state.va.us</a>  Dr. Ram Gupta, Water Quality Monitoring <a href="mailto:rgupta@cblad.state.va.us">rgupta@cblad.state.va.us</a>  S. Michael Vojta, GIS Systems <a href="mailto:mvojta@cblad.state.va.us">mvojta@cblad.state.va.us</a>  Catherine Harold, Site Plan Review <a href="mailto:charold@cblad.state.va.us">charold@cblad.state.va.us</a></p> <p><b><u>Administration</u></b>  Christine W. Edwards, Business Manager <a href="mailto:cedwards@cblad.state.va.us">cedwards@cblad.state.va.us</a>  Altonia W. Foster, Accounting Manager <a href="mailto:afoster@cblad.state.va.us">afoster@cblad.state.va.us</a>  Margaret H. Reynolds, Grants Program Manager <a href="mailto:mreynolds@cblad.state.va.us">mreynolds@cblad.state.va.us</a>  Carolyn Elliott, Executive Secretary Senior <a href="mailto:celliot@cblad.state.va.us">celliot@cblad.state.va.us</a>  Teresa H. Fogg, Program Support Technician <a href="mailto:tfogg@cblad.state.va.us">tfogg@cblad.state.va.us</a></p>

Phone Contact: 1-800-CHES-BAY or 1-804-225-3440

---

CBLAD  
James Monroe Building  
101 North 14<sup>th</sup> Street, 17<sup>th</sup> Floor  
Richmond, VA 23219

U.S. Postage

Visit us at: [www.cblad.state.va.us](http://www.cblad.state.va.us)